

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,)	
)	
Plaintiff,)	
)	C.A. No. 22-1377-MN
v.)	
)	JURY TRIAL DEMANDED
MASIMO CORPORATION and)	
SOUND UNITED, LLC,)	
)	
Defendants.)	
)	
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MASIMO CORPORATION,)	
)	
Counterclaim-Plaintiff,)	
)	
v.)	
)	
APPLE INC.,)	
)	
Counterclaim-Defendant.)	

**PLAINTIFF AND COUNTERCLAIM-DEFENDANT APPLE INC.’S
MOTION TO DISMISS MASIMO CORPORATION’S INEQUITABLE CONDUCT
COUNTERCLAIM AND STRIKE ITS AFFIRMATIVE DEFENSE**

Plaintiff and Counterclaim-Defendant Apple Inc. (“Apple”) moves to dismiss Defendant and Counterclaim-Plaintiff Masimo Corporation’s (“Masimo”) Count III seeking a declaratory judgment of unenforceability of U.S. Patent Nos. D883,279, D947,842, and D962,936 due to inequitable conduct and to strike Masimo’s Second Defense of unenforceability due to inequitable conduct. In support of the Motion, Apple submits the following:

- Apple’s Memorandum Of Law In Support Of Its Motion To Dismiss Masimo Corporation’s Inequitable Conduct Counterclaim And Strike Its Affirmative Defense;
- The Declaration Of Jamie L. Kringstein In Support Of Apple Inc.’s Motion To Dismiss Masimo Corporation’s Inequitable Conduct Counterclaim And Strike Its Affirmative Defense, and all exhibits attached thereto (Exhibits 1–4); and
- A proposed order.

Apple respectfully requests that the Court grant this motion and dismiss Masimo's Count III and strike Masimo's Second Defense for the reasons described in Apple's memorandum of law.

Respectfully submitted,
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Dated: February 21, 2023
10650367 / 12209.00051

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